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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,946	02/25/2004	Alex Stolarz	Q101928	9516

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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02/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,946

Applicant(s)

STOLARZ ET AL.

Examiner

MARC A. PATTERSON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-42, 51, 52, 54-58, 60-62 and 64-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-42, 51, 52, 54-58, 60-62 and 64-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 102(b) rejection of Claims 26 - 39, 41 - 42, 51 - 52, 54 - 58, 60 - 62, 64 - 66, 68 - 71, and 74 - 83 as being anticipated by Flepp et al (U.S. Patent No. 6555,243), of record on page 2 of the previous Action, is withdrawn.

NEW REJECTIONS

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 26, 40, 67, 78 and 81 are rejected under 35 U.S.C. 102(b) as being anticipated by Mason et al (U.S. Patent No. 4,950,515).

With regard to Claims 26, 78 and 81, Mason et al disclose a thermoplastic composite comprising multiple layers (column 6, lines 9 – 17) comprising a mixture of different polyamides homopolymers (column 2, lines 50 – 58) and ethylene vinyl alcohol copolymer, which is a compatibilizer (column 4, lines 9 – 11); the composite is a hollow body having a hollow inner space (container; column 6, line 20); Mason et al therefore disclose an inner layer comprising a mixture of different polyamide homopolymers and a compatibilizer which is adjacent to and defines an inner space, an intermediate layer comprising ethylene vinyl alcohol

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copolymer and an outer layer comprising a mixture of different polyamide homopolymers and a compatibilizer.

With regard to Claims 40 and 67, Mason et al disclose a compatibilizer in the range of 10% by weight (column 2, line 10).

Claim Rejections – 35 USC § 103(a)

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 27 - 39, 41 - 42, 51 - 52, 54 - 58, 60 - 62, 64 - 66, 68 - 77, 79 - 80 and 82 - 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason et al (U.S. Patent No. 4,950,515) in view of Flepp et al (U.S. Patent No. 6,555,243).

Mason et al disclose a composite comprising different polyamides as discussed above. The composite is used in the making of an article (column 4, line 51 of Mason et al). With regard to Claim 27, Mason et al fail to disclose a composite comprising polyamide 6 and polyamide 12.

Flepp et al teach the use of a mixture of polyamide 6 and polyamide 12 in a composite (column 5, lines 18 - 36) for the purpose of obtaining a composite for use in a container or hose (column 3, lines 53 - 55) that has good adhesion between layers (column 5, line 14). One of ordinary skill in the art would therefore have recognized the advantage of providing for the polyamides of Flepp et al in Mason et al, which comprises a container, depending on the desired adhesion of the end product.

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It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for the mixture of Flepp et al in Mason et al in order to obtain good adhesion as taught by Flepp et al.

With regard to Claims 28 - 29, 33 - 42, 51 - 52, 54 - 58, 60 - 62 and 64 - 74, the mixture taught by Flepp et al comprises 25 - 80% by weight of polyamide 6 (column 5, lines 60 - 63), which is within the range of 40 - 60% (2:3 to 3:2) and 40 - 50% (2:3 to 1:1) by weight of polyamide 6 in Claims 33 and 34 of the instant invention, respectively; Flepp et al. also disclose the use of rubbers for impact strength modifiers in the polyamide molding compositions (column 6, lines 33-37); the acid-modified ethylene/olefins copolymers used as an impact strength modifier, can also be used as a compatibilizer (column 6, lines 50 - 56); the impact modifiers have elastomer fractions (column 6, lines 40-43); also disclosed by reference is the use of copolyamide 6/12 to decrease stress cracking; Flepp et al also teach having antistatic agents added so that composite becomes electrically conductive (column 6, lines 13 - 17); additional additives such as pigments (column 6, line 67), stabilizers (column 7, line 1), reinforcement agents (column 7, line 1), and flame retardants (column 7, line 1) can also be added; Flepp et al also discloses the addition of layered silicates (col. 7, line 10) to increase strength, strain at break, and other mechanical properties (column 7, lines 12-14)

With regard to Claims 30 - 32, the applicant is introducing process limitations to the product claim, hence, the process claim is given little patentable weight due to the fact that the patentability of a product does not depend on its method of production.

With regard to Claims 75 - 77, the applicant is introducing the intended use of the thermoplastic multilayer composite; the limitations directed to intended use as a fuel line and

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filler neck for a fuel tank are given little patentable weight. It is noted that Flepp et al teach a fuel line (column 7, lines 62) and therefore inherently discloses a filler neck for a fuel tank.

ANSWERS TO APPLICANT'S ARGUMENTS

6. Applicant's arguments regarding the 35 U.S.C. 102(b) rejection of Claims 26 - 39, 41 - 42, 51 - 52, 54 - 58, 60 - 62, 64 - 66, 68 - 71, and 74 - 83 as being anticipated by Flepp et al (U.S. Patent No. 6,555,243), of record in the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn. The new rejections above are directed to amended Claims 26 - 42, 51 - 52, 54 - 58, 60 - 62 and 64 - 83.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc A. Patterson 2/1/00

Marc A. Patterson, PhD.

Primary Examiner

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